

Message Text

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PAGE 01 PARIS 12538 172039Z
ACTION EB-08

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C O N F I D E N T I A L PARIS 12538

USOECD

EXCON

E.O. 11652: XGDS1
TAGS: ESTC, COCOM, GW, HU
SUBJECT: GERMAN MEMO RE SAFEGUARD MODIFICATIONS
APPLIED TO ENHANCED COMPUTER SYSTEMS

REF: (A) COCOM DOC (77) 838.1; DEF (78) 1565/4,
(B) COCOM DOC (77) 838, (C) COCOM DOC (73) 1715,
(D) COCOM DOC (75) 856

1. GERMAN DEL HAS SUBMITTED MEMO TO COCOM QUESTIONING
APPLICATION OF NOTE 12 SAFEGUARDS TO EQUIPMENT EXPOR-
TED PRIOR TO NOTE 12 WHEN LESS STRINGENT REGIME OF
SAFEGUARDS WAS IN FORCE FOR WHICH ENHANCEMENTS ARE
NOW SOUGHT UNDER THE NOTE 12 PROCEDURE. MEMO REFERS
TO REFCASE C WHICH WAS APPROVED BY COMMITTEE SUBJECT
TO GUARANTEED ACCESS TO THE SYSTEM BY REPRESENTATIVE
OF EXPORTING FIRM FOR AT LEAST 3 YEARS AND QUANTITATIVE
LIMITATION OF SPARE PARTS TO 6 MONTHS REQUIREMENT.
AN ENHANCEMENT OF THE EQUIPMENT BY THE EXPORT OF
PERIPHERALS WAS APPROVED BY THE COMMITTEE IN COCOM DOC
(75) 856 WITHOUT CONDITIONS. THE GERMAN DELEGATION,
HOWEVER SUBMITTED A SECOND ENHANCEMENT REQUEST (REFCASE
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B) UNDER NOTE 12 PROCEDURE. THE APPLICANT IS NOW
PROTESTING AGAINST THE NOTE 12 SAFEGUARDS REQUIRED
PURSUANT TO THE NOTE 12 PROCEDURE ON GROUNDS THAT
THESE ENHANCEMENTS HAVE NOT SIGNIFICANTLY MODIFIED
THE TECHNICAL CHARACTERISTICS OF THE COMPUTER SYSTEM.

2. GERMAN MEMO QUOTES THE APPLICANT--APPARENTLY IBM--

AS STATING, "WE CAN ABSOULUTELY NOT SEE ANY REASON WHY AN INSIGNIFICANT LATER ENHANCEMENT WHICH DOES NOT EXCEED THE TECHNICAL CRITERIA IS TREATED, AS FAR AS VISITATION REQUIREMENTS ARE CONCERNED, EVEN MANY YEARS LATER JUST LIKE THE EXPROT OF THE ORIGINAL SYSTEM. OF COURSE THE TECHNICAL CRITERIA OF THOSE PARAMETERS ARE EXCEEDED, EVEN IN THE CASE OF ENHANCEMENT, IF THE INSTALLED SYSTEM IS REGARDED AS A TOTAL. FROM THIS FACT, HOWEVER, IT CAN NOT BE CONCLUDED THAT ANY ADDITIONAL ENHANCEMENT WOULD REQUIRE NEW VISITATION REQUIREMENTS. WE DO NOT THINK THAT SUCH WAS THE INTENTION OF THE LEGISLATOR, SINCE (A) THESE VISITIONS BEGAN ALREADY AFTER THE INSTALLATION OF THE SYSTEM; (B) THE TECHNICAL CHARACTERISTICS ARE NOT SIGNIFICANTLY MODIFIED AND (C) SUCH NEW VISITATIONS CAUSE ENORMOUS ADDITIONAL TRAVELLING AND PERSONNEL EXPENSES. WE ARE OF THE OPINION, THAT THE CONTROL CODITIONS SHOULD NOT BE EXTENDED IN SUCH WAY THAT, DUE TO SEVERAL INSIGNIFICANT ENHANCEMENTS OF A SYSTEM, WE ARE OBLIGED TO CARRY OUT INSPECTIONS FOR A DURATION OF 6,8,10,12 OR MORE YEARS."

4. USDEL NOTES THAT ENHANCEMENT CASE (REFCASEB) WAS SUBJECT OF BTR 271185 AND WONDERS WHETHER US CASE ALSO REQUIRED ADDITION OF NOTE 12 CONDITIONS. IF, NOT THEN USDEL WOULD SUGGEST TO GERMAN DEL THAT IN SUCH CASES
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GENERAL EXCEPTIONS PROCEDURE RATHER THAN NOTE 12 BE USED.

5.. ACTION REQUESTED: INSTRUCTIONS FOR RESPONDING TO GERMAN MEMO.
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NNN

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